

104TH CONGRESS  
2D SESSION

# H. R. 3777

To approve a settlement agreement between the Bureau of Reclamation and the Oroville-Tonasket Irrigation District.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 10, 1996

Mr. HASTINGS of Washington introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To approve a settlement agreement between the Bureau of Reclamation and the Oroville-Tonasket Irrigation District.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Oroville-Tonasket  
5       Claim Settlement and Conveyance Act”.

6       **SEC. 2. PURPOSES.**

7       The purposes of this Act are to authorize the Sec-  
8       retary of the Interior to implement the provisions of the  
9       negotiated Settlement Agreement including conveyance of

1 the Project Irrigation Works, identified as not having na-  
2 tional importance, to the District, and for other purposes.

3 **SEC. 3. DEFINITIONS.**

4 As used in this Act—

5 (1) the term “Secretary” means the Secretary  
6 of the Interior;

7 (2) the term “Reclamation” means the United  
8 States Bureau of Reclamation;

9 (3) the term “District” or “Oroville-Tonasket  
10 Irrigation District” means the project beneficiary or-  
11 ganized and operating under the laws of the State  
12 of Washington, which is the operating and repay-  
13 ment entity for the Project;

14 (4) the term “Project” means the Oroville-  
15 Tonasket unit extension, Okanogan-Similkameen di-  
16 vision, Chief Joseph Dam Project, Washington, con-  
17 structed and rehabilitated by the United States  
18 under the Act of September 28, 1976 (Public Law  
19 94–423, 90 Stat. 1324), previously authorized and  
20 constructed under the Act of October 9, 1962 (Pub-  
21 lic Law 87–762, 76 Stat. 761), under the Federal  
22 reclamation laws (including the Act of June 17,  
23 1902 (ch. 1093, 32 Stat. 388), and Acts supple-  
24 mentary thereto or amendatory thereof);

1           (5) the term “Project Irrigation Works”  
2 means—

3           (A) those works actually in existence and  
4 described in subarticle 3(a) of the Repayment  
5 Contract, excluding Wildlife Mitigation Facili-  
6 ties, and depicted on the maps held by the Dis-  
7 trict and Reclamation, consisting of the realty  
8 with improvements and real estate interests;

9           (B) all equipment, parts, inventories, and  
10 tools associated with the Project Irrigation  
11 Works realty and improvements and currently  
12 in the District’s possession; and

13           (C) all third party agreements;

14           (6)(A) the term “Basic Contract” means Re-  
15 payment Contract No. 14–06–100–4442, dated De-  
16 cember 26, 1964, as amended and supplemented, be-  
17 tween the United States and the District;

18           (B) the term “Repayment Contract” means Re-  
19 payment Contract No. 0-07-10-W0242, dated No-  
20 vember 28, 1979, as amended and supplemented, be-  
21 tween the United States and the District; and

22           (C) the term “third party agreements” mean  
23 existing contractual duties, obligations, and respon-  
24 sibilities that exist because of all leases, licenses, and  
25 easements with third-parties related to the Project

1       Irrigation Works, or the lands or rights-of-way for  
2       the Project Irrigation Works, but excepting power  
3       arrangements with the Bonneville Power Adminis-  
4       tration;

5           (7) the term “Wildlife Mitigation Facilities”  
6       means—

7           (A) land, improvements, or easements, or  
8           any combination thereof, secured for access to  
9           such lands, acquired by the United States  
10          under the Fish and Wildlife Coordination Act  
11          (16 U.S.C. 661–667e); and

12          (B) all third party agreements associated  
13          with the Wildlife Mitigation Facilities;

14          (8) the term “Indian Trust Lands” means ap-  
15          proximately 61 acres of lands identified on land clas-  
16          sification maps on file with the District and Rec-  
17          lamation beneficially owned by the Confederated  
18          Tribes of the Colville Reservation (Colville Tribes) or  
19          by individual Indians, and held in trust by the Unit-  
20          ed States for the benefit of the Colville Tribes in ac-  
21          cordance with the Executive order of April 9, 1872;

22          (9) the term “Settlement Agreement” means  
23          the Agreement made and entered on April 15, 1996,  
24          between the United States of America acting  
25          through the Regional Director, Pacific Northwest

1       Region, Bureau of Reclamation, and the Oroville-  
2       Tonasket Irrigation District; and

3               (10) the term “O&M” means normal and rea-  
4       sonable care, control, operation, repair, replacement,  
5       and maintenance.

6       **SEC. 4. AGREEMENT AUTHORIZATION.**

7       The Settlement Agreement is approved and the Sec-  
8       retary of the Interior is authorized to conduct all nec-  
9       essary and appropriate investigations, studies, and re-  
10      quired Federal actions to implement the Settlement  
11      Agreement.

12      **SEC. 5. CONSIDERATION AND SATISFACTION OF OUT-**  
13                      **STANDING OBLIGATIONS.**

14           (a) CONSIDERATION TO UNITED STATES.—Consider-  
15      ation by the District to the United States in accordance  
16      with the Settlement Agreement approved by this Act shall  
17      be—

18               (1) payment of \$350,000 by the District to the  
19      United States;

20               (2) assumption by the District of full liability  
21      and responsibility and release of the United States  
22      of all further responsibility, obligations, and liability  
23      for removing irrigation facilities constructed and re-  
24      habilitated by the United States under the Act of  
25      October 9, 1962 (Public Law 87–762, 76 Stat. 761),

1 or referenced in section 201 of the Act of September  
2 28, 1976 (Public Law 94–423, 90 Stat. 1324), and  
3 identified in Article 3(a)(8) of the Repayment Con-  
4 tract;

5 (3) assumption by the District of sole and abso-  
6 lute responsibility for the O&M of the Project Irriga-  
7 tion Works;

8 (4) release and discharge by the District as to  
9 the United States from all past and future claims,  
10 whether now known or unknown, arising from or in  
11 any way related to the Project, including any arising  
12 from the Project Irrigation Works constructed pur-  
13 suant to the 1964 Basic Contract or the 1979 Re-  
14 payment Contract;

15 (5) assumption by the District of full respon-  
16 sibility to indemnify and defend the United States  
17 against any third party claims associated with any  
18 aspect of the Project, except for that claim known  
19 as the Grillo Claim, government contractor construc-  
20 tion claims accruing at any time, and any other suits  
21 or claims filed as of the date of the Settlement  
22 Agreement; and

23 (6) continued obligation by the District to de-  
24 liver water to and provide for O&M of the Wildlife

1 Mitigation Facilities at its own expense in accord-  
2 ance with the Settlement Agreement.

3 (b) RESPONSIBILITIES OF UNITED STATES.—In re-  
4 turn the United States shall—

5 (1) release and discharge the District's obliga-  
6 tion, including any delinquent or accrued payments,  
7 or assessments of any nature under the 1979 Repay-  
8 ment Contract, including the unpaid obligation of  
9 the 1964 Basic Contract;

10 (2) transfer title of the Project Irrigation  
11 Works to the District;

12 (3) assign to the District all third party agree-  
13 ments associated with the Project Irrigation Works;

14 (4) continue power deliveries provided under  
15 section 6 of this Act; and

16 (5) assume full responsibility to indemnify and  
17 defend the District against any claim known as the  
18 Grillo Claim, government contractor construction  
19 claims accruing at any time, and any other suits or  
20 claims filed against the United States as of the date  
21 of the Settlement Agreement.

22 **SEC. 6. POWER.**

23 Nothing in this Act shall be construed as having any  
24 affect on power arrangements under Public Law 94-423  
25 (90 Stat. 1324). The United States shall continue to pro-

1 vide to the District power and energy for irrigation water  
2 pumping for the Project, including Dairy Point Pumping  
3 Plant. However, the amount and term of reserved power  
4 shall not exceed, respectively—

5 (1) 27,100,000 kilowatt hours per year; and

6 (2) 50 years commencing October 18, 1990.

7 **SEC. 7. CONVEYANCE.**

8 (a) CONVEYANCE OF INTERESTS OF UNITED  
9 STATES.—Subject to valid existing rights, the Secretary  
10 is authorized to convey all right, title, and interest, with-  
11 out warranties, of the United States in and to all Project  
12 Irrigation Works to the District. In the event a significant  
13 cultural resource or hazardous waste site is identified, the  
14 Secretary is authorized to defer or delay transfer of title  
15 to any parcel until required Federal action is completed.

16 (b) RETENTION OF TITLE TO WILDLIFE MITIGATION  
17 FACILITIES.—The Secretary will retain title to the Wild-  
18 life Mitigation Facilities. The District shall remain obli-  
19 gated to deliver water to and provide for the O&M of the  
20 Wildlife Mitigation Facilities at its own expense in accord-  
21 ance with the Settlement Agreement.

22 (c) RESERVATION.—The transfer of rights and inter-  
23 ests pursuant to subsection (a) shall reserve to the United  
24 States all oil, gas, and other mineral deposits and a per-  
25 petual right to existing public access open to public fish-



1 ing, hunting, and other outdoor recreation purposes, and  
2 such other existing public uses.

3 **SEC. 8. REPAYMENT CONTRACT.**

4       Upon conveyance of title to the Project Irrigation  
5 Works notwithstanding any parcels delayed in accordance  
6 with section 7(a), the 1964 Basic Contract, and the 1979  
7 Repayment Contract between the District and Reclama-  
8 tion, shall be terminated and of no further force or effect.

9 **SEC. 9. INDIAN TRUST RESPONSIBILITIES.**

10       The District shall remain obligated to deliver water  
11 under appropriate water service contracts to Indian Trust  
12 Lands upon request from the owners or lessees of such  
13 land.

14 **SEC. 10. LIABILITY.**

15       Upon completion of the conveyance of Project Irriga-  
16 tion Works under this Act, the District shall—

17           (1) be liable for all acts or omissions relating to  
18 the operation and use of the Project Irrigation  
19 Works that occur before or after the conveyance ex-  
20 cept for the Grillo Claim, government contractor  
21 construction claims accruing at any time, and any  
22 other suits or claims filed as of the date of the Set-  
23 tlement Agreement;

24           (2) absolve the United States and its officers  
25 and agents of responsibility and liability for the de-

1 sign and construction including latent defects associ-  
2 ated with the Project; and

3 (3) assume responsibility to indemnify and de-  
4 fend the United States against all claims whether  
5 now known or unknown and including those of third  
6 party claims associated arising from or in any way  
7 related to the Project except for the Grillo Claim,  
8 government contractor construction claims accruing  
9 at any time, and any other suits or claims filed as  
10 of the date of the Settlement Agreement.

11 **SEC. 11. CERTAIN ACTS NOT APPLICABLE AND TERMI-**  
12 **NATION OF MANDATES.**

13 (a) RECLAMATION LAWS.—All mandates imposed by  
14 the Reclamation Act of 1902, and all Acts supplementary  
15 thereto or amendatory thereof, including the Reclamation  
16 Reform Act of 1982, upon the Project Irrigation Works  
17 shall be terminated upon the completion of the transfers  
18 as provided by this Act and the Settlement Agreement.  
19 After transfer of title, any future Reclamation benefits to  
20 be received pursuant to chapter 1093 of the Reclamation  
21 Act of June 17, 1902 (32 Stat. 388), and Acts supple-  
22 mentary thereto or amendatory thereof, other than as pro-  
23 vided herein, shall be subject to approval by Congress.

24 (b) RELATIONSHIP TO OTHER LAWS.—The transfer  
25 of title authorized by this Act shall not—

1           (1) be subject to the provisions of chapter 5 of  
2           title 5, United States Code (commonly known as the  
3           “Administrative Procedures Act”); or

4           (2) be considered a disposal of surplus property  
5           under the Federal Property and Administrative  
6           Services Act of 1949 (40 U.S.C. 471 et seq.) and  
7           the Surplus Property Act of 1944 (50 U.S.C. App.  
8           1601 et seq.).

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